

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

RYAN P. NICHOLL,

Plaintiff,

v.

BOARD OF REGENTS OF THE
UNIVERSITY SYSTEM OF
GEORGIA,

Defendant.

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CIVIL ACTION NO.
1:16-CV-1350-AT

**BOARD OF REGENTS OF THE UNIVERSITY SYSTEM
OF GEORGIA’S AMENDED MOTION TO DISMISS**

COMES NOW the Defendant, the Board of Regents of the University System of Georgia (the “Board”), by and through counsel, Samuel S. Olens, the Attorney General of the State of Georgia, and pursuant to FED. R. CIV. P. 12(b)(1) and 12(b)(6), moves to dismiss the Complaint, showing the Court the following:

Plaintiff is a student of Kennesaw State University, an institution of the University System of Georgia. He has filed this multi-count Amended Complaint alleging both state and federal questions, including, among other claims, discrimination, violation of due process, the dormant commerce clause, antitrust acts, and coercive, illusory, unilateral contacts as they relate to a mandatory meal plan implemented by the Board and Kennesaw State University.

Plaintiff has only sued the Board of Regents of the University System of Georgia, seeking damages, declaratory, and injunctive relief. Plaintiff's claims are barred by the Eleventh Amendment and the Complaint fails to state a claim.

A memorandum of law is being filed contemporaneously with this motion.

This 27th day of June, 2016.

Respectfully submitted,

SAMUEL S. OLENS 551540
Attorney General

W. WRIGHT BANKS, JR. 036156
Deputy Attorney General

/s/Julie Adams Jacobs
JULIE ADAMS JACOBS 003595
Senior Assistant Attorney General

/s/ Brooke E. Heinz
BROOKE E. HEINZ 927752
Assistant Attorney General

PLEASE ADDRESS ALL
COMMUNICATIONS TO:

BROOKE E. HEINZ
Assistant Attorney General
40 Capitol Square, S.W.
Atlanta, Georgia 30334-1300
Telephone: (404) 651-9457
Fax: (404) 657-3239
E-mail: bheinz@law.ga.gov

CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1(D), I hereby certify that the foregoing has been prepared in compliance with Local Rule 5.1(B) in 14-point New Times Roman type face.

This the 27th day of June, 2016.

/s/ Brooke E. Heinz
BROOKE E. HEINZ 927752
Assistant Attorney General

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CERTIFICATE OF SERVICE

I do hereby certify that I have this date served a copy of the foregoing AMENDED MOTION TO DISMISS AND BRIEF IN SUPPORT OF upon:

Ryan Patrick Nicholl
950 Hudson Rd. SE
Apt 202
Marietta, GA 30060

by placing the same into the United States mail with adequate, first-class postage placed thereon.

This 27th day of June, 2016.

/s/ Brooke E. Heinz
BROOKE E. HEINZ 927752
Assistant Attorney General